

**PLANNING AND ZONING BOARD
FEBRUARY 28, 2001**

1. ROLL CALL

The meeting was called to order at 7:37 p.m. Board members present were Chair George Greb, Vice-Chair Jay Stahl, Michael Davenport, Larry Davis, and Edna Moore. Also present were Board Attorney Monroe Kiar, Planner Chris Gratz and Board Secretary Janet Gale recording the meeting.

2. APPROVAL OF MINUTES: March 22, 2000

January 10, 2001 (Revised 2/21/01)

Vice-Chair Stahl made a motion, seconded by Ms. Moore to approve the minutes for March 22, 2000 and January 10, 2001. Mr. Kiar asked that the January 10, 2001 minutes be revised again and Chair Greb opened the floor for discussion regarding the January 10th minutes. Mr. Kiar was concerned with comments on page 4, Item 3.4, ZB 11-2-00, Zimmerman Associates. He stated that the statement "the Board was legally required to approve the request," had not been stated, as he had reviewed the original recording of the meeting in question. He clarified that his statement "the Board had the discretion to vote either way" had been made several times during the meeting and he, therefore, requested that the aforementioned statement be removed from the minutes as it was incorrect. Mr. Kiar asked that this statement be revised to read "he indicated that there was a written agreement and the language was very strong in favor of the applicant's request; however, arguments could be made in opposition of the request." Messrs. Davis and Davenport agreed that the minutes should be changed as they recalled Mr. Kiar's statements.

Vice-Chair Stahl amended his motion; seconded by Mr. Davis, to approve the minutes of March 22, 2000 and to table the approval of the minutes for January 10, 2001 until the correction was made. In a voice vote, all voted in favor. **(Motion carried 5-0)**

3. PUBLIC HEARINGS

3.1 ZB 10-1-00, Home Depot USA/Geiserman, Trustee and Farias, west side of University Drive, east of SW 82 Avenue, north of Stirling Road (from A-1 to B-2) (tabled from February 14, 2001)

Ken Bay and Stephanie Toothaker-Walker, representing the petitioner, were present. Ms. Toothaker-Walker stated that the purpose of this rezoning was to permit additional parking for the proposed Home Depot store, which would replace the existing Winn-Dixie store.

Mr. Gratz read the planning report (Planning and Zoning Division's recommendation: approval subject to the condition as outlined in the report). Vice-Chair Stahl questioned why Home Depot would want another store in such close proximity to the existing Home Depot located further north on University Drive. Mr. Bay stated that the reason was to relieve sales volume in the existing Home Depot and to provide convenience to customers. Mr. Davis questioned if Home Depot was trying to eliminate the possibility of competition moving into the area. Mr. Bay stated that with respect to their competition, that was not the case.

Chair Greb asked if anyone wanted to speak for or against this item. As no one spoke, the public hearing was closed.

Mr. Davenport questioned the provisions for drainage of the site and if there was vehicle access from 82nd Avenue. Using an aerial, Ms. Toothaker-Walker addressed his concerns.

Ms. Moore made a motion, seconded by Vice-Chair Stahl, to approve. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davis, yes; Mr. Davenport, yes; Ms. Moore, yes. **(Motion carried 5-0)**

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3.2 ZB 1-2-01, Ramos/Parkway Christian Church, 1200 South Flamingo Road (CF to CF, amending Declaration of Restrictions)

Arnold Ramos, the petitioner, was present. He requested amending the Declaration of Restrictions to change the hours of operation and to allow the number of children to increase so as to permit an elementary school. He requested to keep all other original restricted covenants intact.

Mr. Gratz read the planning report (Planning and Zoning Division's recommendation: approval).

Chair Greb asked if anyone wanted to speak for or against this item.

Phillip Harwick, 1205 SW 120 Way, stated his opposition to this item. His property directly faced the amphitheater and was subject to significant noise levels at nighttime. He stated that there was an immense amount of traffic potential if vehicle access was allowed at a culvert located on SW 121 Avenue. Mr. Harwick stated that this property generated no tax revenue for the Town, Broward County or the State.

Libby Brien, 1211 SW 120 Way, was opposed to this item mainly because of the noise generated from the school and the possibility of future increased noise. Ms. Brien stated that the church had promised landscape buffers and lake cleaning which had never materialized over the last few years. She had concerns over the increased traffic on SW 121 Avenue future access, decreased property values, and damage to her home from a huge steeple should there be a hurricane.

Sylvia Weiss, 1217 SW 120 Way, stated her opposition to this item based on past care of the property. She commented that there was a mess on this property and the lake had not been maintained. Vice-Chair Stahl questioned the access points in the back of the property. Ms. Weiss replied that there was a circular driveway that Parkway Christian Church created in a U-shape.

Sharon Goldstein, 1301 SW 118 Terrace, advised she was president of the Homeowner's Association and stated her opposition to this item. She indicated that she represented many homeowners also in opposition because of the noise and the inadequate buffer. Ms. Goldstein commented that she believed the culvert located off SW 121 Avenue was in preparation to provide a U-turn

Gary Barth, 11861 SW 9 Manor, a member of the Parkway Christian Church, spoke in favor of expanding the school. He stated that the driveway was not U-shaped, the pond was not dirty and was self-maintaining. Mr. Barth commented that children in kindergarten through fifth grades would not loiter in that area and he felt that the noise generated was not a nuisance.

Linda McDaniel, 7741 SW 15 Street, Vice Chairman of Executive Corp., to the Church and Principal of Nova Eisenhower Elementary School in Davie, spoke in favor of Parkway Christian Church offering an alternative for overcrowding in neighborhood public school. Ms. McDaniel stated the church would provide a needed service and would work with residents in the community.

Sally Walker, 6601 SW 16 Street, Director of Preschool at Parkway Christian School, spoke in favor of this item. Ms. Walker assured the Board that noise would be kept at low levels with no loud bells.

Judith Connell, 11907 SW 13 Court, Lake Pines II board member, was opposed to this item. Ms. Connell spoke about severe congestion on roads and dangers to children and adults while walking in the area.

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Mr. Davis asked Ms. Connell if she or any Lake Pines II board member had been approached by the petitioner to discuss this plan or if any church representatives contacted them. Ms. Connell replied that some residents received notices but no one contacted the Lake Pines II board members. Mr. Davis asked Ms. Goldstein if she had been contacted. Ms. Goldstein replied that everything occurred very quickly in the prior week and she had not been contacted. Ms. Goldstein reiterated her concerns.

Chair Greb closed the public hearing.

Mr. Ramos clarified that the site plan had been approved and installed and the culvert crossing was a utilities loop system. He added that members of the church did not intend to connect to 121 Avenue. Mr. Ramos acknowledged that the only noise might be from the Easter service held by the lake. He stated that the facility was used four days a week by several scouting groups that were no longer allowed to use public schools. Mr. Ramos said he would meet with homeowners to address the buffer and resolve any issues.

Mr. Davenport questioned the expansion of square footage. Mr. Ramos replied they would not go beyond the 28,000 square feet. Mr. Davenport asked about the 30 foot buffer being maintained. Mr. Ramos stated that there had been no representation that the landscaping would be thick enough so the church would not be seen but he would try to make it better for the neighbors. Mr. Davenport asked if there were sports activities. Mr. Ramos responded negatively stating that there was only a playground now and sports activities would be arranged with Triple Cross with no change to the parking area to the east of the building. He stated that sports activities would take place on the West and South sides of the building.

Ms. Moore asked if the kennel to the north of the site was still there. Homeowners replied affirmatively. Ms. Moore added her opinion that this was a reasonable request.

Chair Greb discussed that in 1992, there was a Declaration of Restrictions placed upon the property and without the support of the residents, he could not see changing that. He likened it to an agreement between the petitioner, the Town, and the surrounding community. Chair Greb did not believe that neighbors were given assurances, especially since meetings had not taken place.

Mr. Davenport agreed on the school being built to reduce the burden at the elementary level and stated that traffic on Flamingo Road could take the extra load. He mentioned the Declaration of Restriction needed to be approved by the Town and the residents. Mr. Davenport agreed that meetings with residents should take place to mitigate the impact and obtain their support before coming back with a refined plan.

Vice-Chair Stahl agreed with Mr. Davenport and Chair Greb and discussed that the school may ask for more if the deed restriction amendment was approved.

Mr. Davis stated that he recognized the importance of the new school, however, he was concerned about the petitioner giving only the minimum time notice as was required by law. Mr. Ramos asked that this issue be deferred in order to allow time to speak with residents about the buffer and the site plan.

Vice-Chair Stahl made a motion, seconded by Mr. Davenport, to table this item to the March 28, 2001 meeting. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davis, yes; Mr. Davenport, yes; Ms. Moore, yes. **(Motion carried 5-0)**

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3.3 FX 11-1-00, Silva/Thorite of Florida Inc. and Kligman, 2100 Flamingo Road (AG)

Bill Laystrom, representing the petitioner, was present. He deferred comments until after staff read the planning report. Mr. Gratz read the planning report (Planning and Zoning Division's recommendation: approval).

Mr. Laystrom commented that there was a "glitch" with Broward County regarding kennels and he explained why the "flex zoning" would be appropriate for the kennel portion of the application. He answered questions regarding the facility planning and stated that all runs would be indoors and sound proofed. Upon questioning by Chair Greb regarding plans for expansion, Mr. Laystrom explained that due to the configuration of the lots, it was necessary to purchase the additional land although there were no intentions to utilize the vacant space.

Chair Greb asked if anyone wanted to speak for or against this item. There being no comments, the public hearing was closed.

Mr. Davenport made a motion, seconded by Ms. Moore, to approve. In a roll call vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davis, yes; Mr. Davenport, yes; Ms. Moore, yes. **(Motion carried 5-0)**

3.4 V 11-1-00, Home Depot USA/University Creek Associates, LTD., west side of University Drive north of Stirling Road (A-1 and B-2)

Ms. Toothaker-Walker and Mike Bay, representing the petitioner, were present. Mr. Gratz read the planning report (Planning and Zoning Division's recommendation: approval of first two variances and denial of the third which related to parking).

Ms. Toothaker-Walker commented that the first variance related to the 136,000 square foot size of the building which was the size required in order to build a feasible store to meet the constraints of a Home Depot and to serve the needs of the community. The second variance related to the square footage of the building and the third regarded parking. Ms. Toothaker-Walker advised that staff had asked that the parking be brought up to Code by installing ten foot parking islands which she explained reduced the number of parking spaces. She further pointed out that the Home Depot store did meet the required parking; however, with the inclusion of the other stores in the parking calculations, they came up short by 83 spaces.

Mr. Davis questioned why it would be necessary to include the rest of the shopping center in the parking calculations if it was not owned by the petitioner. Mr. Gratz replied that other stores in the shopping center would be impacted. Ms. Toothaker-Walker attempted to clarify the problem from her perspective which justified the need for the variance. Ms. Moore stated her observations that all parking spaces had never been used and would never be filled even with the addition of Home Depot. Chair Greb remarked that with a powerful tenant such as Home Depot, the rest of the center would have increased traffic. Ms. Moore stated that more spaces could not be added to this shopping center.

Mr. Davenport questioned the viability of a larger store since, as Chair Greb had noted, a smaller store would not require as many parking spaces. Ms. Toothaker-Walker responded that the parking for the overall shopping center, which staff was now requesting, had not been envisioned in the earlier planning and parking calculations which were based on this size home improvement store.

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Planning and Zoning Manager Jeff Katims explained that the two separately owned parcels, University Creek Center and the Home Depot parcel, were site planned together as one center. He stated that the University Creek Center did not stand alone on parking, and in order to meet Code, it was required to use parking on the proposed Home Depot site. Mr. Katims stated that Home Depot would be fine on its own, however, staff had to look at the entire project as it had been planned and that overall, the spaces were in a deficit and did not meet Code. Chair Greb reiterated his point that the original building which Home Depot was replacing was much smaller and, therefore, required less parking when the shopping center was built out.

Discussions ensued regarding the history of the center and its present state. Mr. Bay advised of the research involved prior to undertaking this project and assured that Home Depot would not put a store on a site where there was insufficient parking. He answered questions posed by the Board and pointed out where additional parking was being added.

Mr. Laystrom described the dynamics of the transaction and the impact this project would have on the development of the shopping center. He spoke in favor of the project and pointed out how the improvements would benefit the shopping center. Mr. Laystrom continued that this project provided relief to an otherwise blighted parcel and how it would contribute to the University Drive corridor. He reminded the Board that some compromise should be considered in order to improve and expand prosperous businesses in an area that had already been developed as opposed to building afresh out west.

Chair Greb asked if anyone wanted to speak for or against this item.

Steve Ronblat, owner of the Burger King at 591 South University Drive, spoke in favor of the project. He noted the blight that was present since Winn Dixie closed and he believed that Home Depot would provide the potential for economic productivity. Mr. Ronblat discussed the magnitude of the parking at the Home Depot located near I-595 and assessed that the problem there was the taking of parking spaces for a restaurant. He stated that that would not happen here as all the property had been designated and would not be an issue in this case.

Chair Greb closed the public hearing.

Mr. Davenport inquired on the size of the I-595 Home Depot. Mr. Bay responded that it was 102,000 square feet with a 25,000 square foot additional garden center. Mr. Bay explained that economics necessitated the size of the store and that it would not be financially feasible to cut out parts of this store.

Ms. Moore made a motion to approve. For sake of discussion, Vice-Chair Stahl seconded the motion with an amendment to vote on all three variances at the same time.

Chair Greb indicated that he intended to inquire if the Board wished to discuss the variances individually or as one. Mr. Davenport commented that one variance would impact another and should, therefore, be treated as one. Mr. Davis agreed and believed that this was an "all or nothing" proposal. Mr. Bay stated that Mr. Davis was correct and he reiterated why his position was dependent on all three variances.

Discussions continued regarding the parking problem with some Board members taking issue with the applicant's position of being "all or nothing." Mr. Bay indicated that Home Depot was a merchant driven company and the store needed to be this size in order to provide customers with the merchandise that was expected.

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Ms. Moore spoke of the attributes and generosity of the I-595 Home Depot in contributing towards community projects. Chair Greb inquired of Mr. Kiar if crossover parking agreements were legal between adjoining property owners. Mr. Kiar advised that there could be such an agreement. Chair Greb indicated that he would have some "comfort level" if that was a condition of approval.

Ms. Moore amended her motion, seconded by Vice-Chair Stahl, to approve the three variances with the condition that there be a cross parking agreement between Home Depot and the other shops in the University Creek Plaza and that Home Depot would not use the parking lot for outdoor sales displays. In a roll call vote, the vote was as follows: Ms. Moore, yes; Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davenport, yes; Mr. Davis, yes. **(Motion carried 5-0)**

**3.5 V 1-2-01, Mellgren/Forman and Forman, Trustees, Nova Drive 6405 Nova Drive
(M-4, County)**

Michelle Mellgren and Mark Sheldon, representing the petitioner, were present. Mr. Gratz read the planning report (Planning and Zoning Division's recommendation: denial).

Ms. Mellgren asked for a reduction of open space for reasons of special circumstance including that the parcel was "L" shaped which was less efficient than being rectangular; that Ruby Tuesday's was an existing development on the parcel which contributed to the constraints; and that more parking was necessary which would reduce the available green space. Ms. Mellgren stated that this plan was in harmony with the intent of the Code and was needed on the east side of the Town.

Chair Greb clarified that if there was not an out parcel, there would be no need for a variance and the site would meet all the requirements. Ms. Mellgren confirmed the assessment and explained that the property would not generate a viable financial return for the investment involved. Mr. Sheldon explained the constraints on the property and how it needed to be developed in order to produce a balance of cost and return. He said this parcel was 455 feet deep and Publix was the only grocer operating in Florida that had a prototype store less than 30,000 square feet. Mr. Sheldon commented that this store was a good fit for this parcel and the land would be utilized efficiently with this plan. He suggested they be allowed to develop the way it was presented.

Ms. Moore questioned if this was part of Westport and if two-thirds of an acre could be added from the Westport variance. Ms. Mellgren replied that it was not available and it would raise the issue of more land, more developed square footage, which would result in a vicious cycle. Ms. Mellgren discussed the court ordered Forman Agreement wherein the zoning of the property, to her understanding, was County M-4, requiring 20% open space. She stated that there was a disagreement with staff's interpretation because of a permitted use in that district and that the open space requirement for that use should apply to the subject property. This would bring the open space requirement to 30%.

Mr. Kiar could not clarify the agreement because he did not have it. Mr. Davis voiced his frustration of not having the Forman Agreement to look at or read in order to understand what was given in exchange. Mr. Kiar asked if Ms. Mellgren and Mr. Sheldon would like to table this issue to allow review of the agreement. Mr. Davis moved to defer, pending the Board's ability to review this agreement and get input from the town attorney. Mr. Kiar agreed to review this before the next Council meeting, as this would be an issue coming up.

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Chair Greb asked if anyone would like to speak for or against this item.

Norm Blanco, 2080 SW 72 Avenue, spoke in support of this item and stated it was needed by the community. He urged the Board to support the variance and indicated that given proper notice, he could rally a couple of hundred people who would like to see this project completed.

Chair Greb closed the public hearing.

Mr. Davis stated that he wanted to make an informed decision and restated his motion.

Mr. Davis made a motion, seconded by Mr. Davenport, to table this application to March 14, 2001, pending the Board's ability to review the Forman Agreement, or at least the pertinent portions of that agreement as it related to this issue; and, ideally, also get an opinion from the Town Attorney on this matter. In a voice vote, the vote was as follows: Chair Greb, yes; Vice-Chair Stahl, yes; Mr. Davis, yes; Mr. Davenport, yes; Ms. Moore, no. **(Motion carried 4-1)**

3.6 V 1-5-01, Nova Southeastern University, 3301 College Avenue (CF)

John Santulli, representing the applicant, was present. Mr. Gratz read the planning report (Planning and Zoning Division's recommendation: approval).

Chair Greb questioned if there would be any burden on the Town in the case of providing special fire equipment. Mr. Santulli replied that a building of this height, exceeding 50 feet, would require a smoke evacuation system and this structure would be shorter than which had been built for the medical school.

Chair Greb requested that staff meet with the Acting Deputy Fire Chief to see if special equipment would be required before granting this variance and have verification of this information from a professional to report to Council.

Chair Greb asked if anyone would like to speak for or against this item. There being no comments, public hearing was closed.

Ms. Moore made a motion, seconded by Mr. Davenport, to approve subject to verification that the Town had the fire equipment to service buildings of this height, that no additional fire equipment would be required for these buildings, that this verification be made available to the Town Council at time of review of this item. In a roll call vote, the vote was as follows: Vice-Chair Stahl, yes; Mr. Davenport, yes; Mr. Davis, yes; Ms. Moore, yes; Chair Greb, yes. **(Motion carried 5-0)**

4. OLD BUSINESS

There was no discussion of old business.

5. NEW BUSINESS

Mr. Davis asked Mr. Kiar if the Planning and Zoning Division's planning report could be stipulated into record without having to read it verbatim and if there were any objections to this. Mr. Kiar replied that it could be done and that in the past, it had been summarized in many instances.

Development Services Director Mark Kutney stated that he would be happy to work with the Board on providing a summary of the planning report.

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Mr. Kutney discussed his intention to report to the Board on March 14, 2001, on the possibility of obtaining the minutes of meetings more expeditiously in order to make processes more efficient and effective. Using a diagram with chronological references, Mr. Kutney demonstrated how the review process would be extended in order to provide approved minutes to Council. He reported that when Council had addressed this proposal, it had decided not to delay the review process in order to have the approved Planning and Zoning Board minutes.

6. COMMENTS AND/OR SUGGESTIONS

Chair Greb thanked Mr. Davenport, on behalf of the Board, for the time served during the past four and one-half years. Mr. Davenport replied that he enjoyed learning from Chair Greb and the Board and wished everyone the best.

Vice-Chair Stahl stated he would not be at the April 11, 2001 meeting. Chair Greb stated he would be out of town sometime in April and would let the Board know as soon as he had specific dates.

7. ADJOURNMENT

There being no objections, the meeting adjourned at 11:27 p.m.

Date Approved _____

Chair/Board Member